

CHAPTER NO. 395

HOUSE BILL NO. 1470

By Representatives Fitzhugh, Maddox, Jackson, Sands, White, McCord, Langster

Substituted for: Senate Bill No. 1250

By Senators Herron, Kyle

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18, relative to certain unsolicited loans.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding Sections 2 through 3 of this act as a new part thereto.

SECTION 2. Unless otherwise agreed, where unsolicited mail that resembles a check is, upon endorsement by the payee, a loan, the payee is under no duty to repay such loan unless such unsolicited mail has upon its face in boldface letters at least one-half inch (1/2") in height the following:

THIS IS A LOAN.

SECTION 3. In any action for the collection of the balance due on an unsolicited loan received by mail that resembles a check it shall be a complete defense that such unsolicited loan was not actually requested by the defendant and such mail did not have upon its face the language required by Section 2 of this act.

SECTION 4. A violation of this part constitutes a violation of the Tennessee Consumer Protection Act of 1977, compiled at Tennessee Code Annotated, Section 47-18-101, et seq. For the purposes of the application of the Tennessee Consumer Protection Act, any violation of this part shall be construed to constitute an unfair or deceptive act or practice affecting the conduct of any trade or commerce and subject to the penalties and remedies as provided in that act.

SECTION 5. Tennessee Code Annotated, Section 47-18-113, is amended by designating the current subsection (b) as subsection (c) and by adding the following as a new subsection (b):

(b) Any provision in any agreement or stipulation, verbal or written, restricting jurisdiction or venue to a forum outside this State or requiring the application of the laws of another state with respect to any claim arising under or relating to the Tennessee Consumer Protection Act and related acts set forth in Title 47 is void as a matter of public policy. Further, no action of a consumer or other person can alter, amend, obstruct or abolish the right of the Attorney General and Reporter to proceed to protect the State of Tennessee and consumers or other persons within this State or from other states who are victims of illegal practices of persons located, wholly or in part, in Tennessee's borders.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 7. The provisions of this act shall take effect July 1, 1999, except for Section 5, which shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 28, 1999


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 14th day of June 1999


DON S. INGVALDSEN, GOVERNOR